

KITTERY PORT AUTHORITY

APPROVED
September 6, 2012
7:00 p.m. – 10:00 p.m.
Council Chambers

Members Present: John Carson, Chairman, Barry Bush, Bob Melanson, Kelly Philbrook, Tom Smith, Joan Castellano, Ray Grenier, and Harbormaster Mike Blake.

Members Absent: none

1. Pledge of Allegiance

2. Minutes:

- 2 August 2012 Meeting
The minutes of August 2, 2012 were deferred.

3. Budget Report

- YTD
Through August 28, 2012:
Revenues total \$6,814.80; Annual revenue estimate is \$107,000.
Expenses total 19.1% of annual budget; Harbor Master is receiving monthly financial reports now.
- Year End Bills (no report submitted)
- Reports Available

4. Harbor Master Segment – Mike Blake

- Met with Mr. Bush regarding storm moorings. Four, 3,000 pound blocks will be placed in Powerhouse Cove for securing boats during storms. Estimated cost will be \$6,000-\$8000 and will come from CIP funds.

Mr. Melanson moved to approve the placing of storm moorings at a cost of \$6,000.00 from the CIP funds account.

Mr. Grenier seconded

There was no discussion

Motion carries with 6 in favor; 1 abstention (Bush); 0 opposed

- Toured Spruce Creek with Amber Harrison, CEO, to document potential violations.
 - General maintenance to the pier is ongoing. Rusty hoist chain repaired.
 - Incidents:
 1. Sailboat washed up at Ft. McCleary wall was retrieved, secured and owner notified.
 2. Motorboat with passengers lost power beneath Memorial Bridge; towed to Back Channel.
 3. 32-foot sailboat drifted beneath Sarah Long Bridge; Towboat US towed sailboat to Durham Point; \$600 in damage.
 - Using GPS, located moorings in Pepperrell Cove with Peter Walsh. The process will be repeated in the Back Channel. It appears a significant number of moorings have not been used.
- McCollett Mooring Complaint: John McCollett stated the Harbor Master denied use of his temporary mooring permit because he has not used the mooring in 3 years, due to medical and personal issues.

[He provided aerial photos of the mooring area to KPA members.] Mr. McCollett found that Neil Odom was using his mooring. Discussion followed regarding the length of time Mr. McCollett held the mooring, when Mr. Odom began using the mooring, mooring numbers and locations, and potential re-locations. He asked to use his mooring and move Mr. Odom. Harbor Master Blake stated he spoke with Bion Pike who told him Mr. McCollett had not used the mooring in three years and should be removed from the temporary program, as they are now in the fourth year. The mooring is not in good condition, and the Harbor Master has the authority to move the mooring location. Mr. Carson summarized that Mr. McCollett has two moorings in Pepperrell Cove under the name of Clifford and McCollett, and neither have been used in three years. Mr. McCollett stated Mr. Odom encroached on his mooring and should be moved. Mr. Blake stated he did not know if moving the mooring would create a ripple effect on other moorings. Ms. Philbrook stated she knew Mr. McCollett had that mooring for at least 20 years. Due to unforeseen circumstances he has been unable to place his boat, but special exceptions have been made, and if he places his boat in the fourth year, he meets the rules. Ms. Castellano, Mr. Grenier, and Mr. Bush agreed. Mr. Melanson suggested moving Mr. Odom's boat to the vacant old harbormaster mooring. Mr. Carson recommended the Mr. McCollett, Mr. Blake and Mr. Odom meet to discuss and resolve the issue, and that Mr. McCollett needs to bring his mooring into good condition. Mr. McCollett and Mr. Blake agreed to follow Mr. Carson's recommendation.

- Assistant Harbor Master Appointment – Alan Breton
Alan Breton spoke about his experience and interest in serving as Assistant Harbor Master, noting he volunteered this past summer at the Traip launch, collecting fees and helping boaters. Mr. Blake concurred, noting he has been a tremendous help.

Mr. Melanson moved to appoint Alan Breton as Assistant Harbor Master
Mr. Bush seconded
There was no discussion
Motion carries unanimously

- Dinghy Management (launch service) Program
Mr. Blake explained dinghies have been problematic in Pepperrell Cove. The launch service would reduce the number of dinghies and eliminate the need for more dock space, and secure fees to pay for the personnel needed for the service. Ms. Philbrook noted her concern regarding insurance and suggested a private service may be more feasible. She also suggested the KPA purchase dinghies for boaters use. Mr. Smith suggested contacting the Portsmouth Yacht Club for further information. With the BIG pending, service will be needed. The majority of the members agreed the launch service it is worth further consideration and discussion.

KPA members Tom Smith and Ray Grenier will work with the Harbor Master and new Assistant Harbor Master to consider options for launch service in Kittery.

- Harbor Master Cell Phone & Computer
Mr. Blake has an old police cruiser laptop that he uses at the Harbor Master shack for data management. He is still using the Walmart cell phone as well. Because it is the end of the season, these issues will be discussed further once the Town hires a new IT manager.

5. Marinas, Piers and Floats

- Scheduling Hearing - Application of Sarah Bartlett Upton Rollins to construct a 4' x 20' fixed pier with a 3' x 30' ramp and a 10' x 20' float on her property at 76 Chauncey Creek Road, Kittery Point, Maine 03905.

Zach Taylor, Agent, explained this is a seasonal float that has received ACOE review and approval and are awaiting DEP the final permit. There will be no pilings on the float. Mr. Smith asked about reducing the ramp to 25 feet. Mr. Taylor stated the float would then sit in the mud during low tide, and the DEP would require a float stop system. Ms. Philbrook stated this is a tricky navigational area and a site walk should be scheduled during low tide.

Mr. Melanson moved to accept the application as substantially complete to hold a public hearing.

Mr. Bush seconded

There was no discussion

Motion carries unanimously

A site walk for this item was scheduled for 2:00 p.m. on September 11, 2012.

- Approval Letter - Application of Laurie Smith to construct a 4' x 40' pier with a 3' x 40' ramp and a 10' x 12' float on the property of Laurie and Greg Smith at 24 Goodwin Road, Gerrish Island, Kittery Point, ME 03905, Approval letter specifying a 25' ramp rather than the approved 30' ramp.
Clearwater Environmental, Agent.
[Approval letter sent via email]
- Modified Approval Letter for David & Jeanette Price, 18 Folcutt Road, Kittery, Maine 03904, authorizing "year round" deployment rather than "seasonal". Riverside Pickering Marine Contractors, Agent.
[Approval letter sent via email following discussions with the DEP]
- Scheduling Hearing – Application of Jones Family Trust to add a 98 sq. ft. landing with an associated ramp leading to existing floats at their property at 12 Chauncey Creek Road, Kittery Point, Maine 03905 (on Agenda provisionally, pending Kittery Planning Office Review). Riverside Pickering Marine Contractors, Agent.
This item has been deferred as the applicant must appear before the Board of Appeals.
- Application of Terrell R. Whiting, for a 10' X 20' moored float on mooring # 649, located on the southerly side of the of the Back Channel southeasterly of the Wyman Ave. Bridge.

Terry Whiting explained he is requesting the moorings to provide in the water boat service. He will place another 6,000 pound mooring, and ACOE and DEP permits will be forthcoming. Harbor Master Blake had no issues with the request. Mr. Smith asked how he will come up with a second mooring fee when he is serving multiple boats. Mr. Carson stated the Rules and Regulations will be tightened up regarding this issue and he will be assessed accordingly.

Mr. Melanson moved to approve a 10'x20' moored float on two moorings in the area mooring #649 for Terrell Whiting.

Mr. Bush seconded

There was no discussion

Motion carries unanimously

- Complaint of Case & Walworth, 108 Whipple Road, Kittery, Maine 03904 regarding relocation of floats by abutter, Scott Mangiafico, 7 Keene Terrace, Kittery, Maine 03904. [8:12:12]

Charles Case stated that Mr. Mangiafico has moved his floats from the 1996 KPA approved location and from the State approved location, impeding his ability to dock his boat safely, without damage. He read a letter to Mr. Carson [attached], and summarized the following years' changes to the approved float location, referencing drawn plans [unavailable], and described how the re-location and use of his dock [shared a photo with members] and neighbor docks are negatively impacted.

Scott Mangiafico stated he is in conformance with the KPA approval of 2006, which included the provision he could choose to move it over 4-6 feet. He further explained he received permission to relocate his floats from Carol DiBello, State Submerged Lands Bureau, and is not in violation of that approval.

Mr. Case read from the June 2006 KPA minutes:

Mr. Bush asked if the approval is contingent on the larger boat sitting alongside the 20' floats and on his making an attempt to pivot the whole system easterly. Mr. Carson confirms that it is. 3 in favor; Mr. Petty against, the motion passes.

Mr. Case stated 'an attempt' versus 'whether he feels like it' is a totally different statement.

Mr. Mangiafico read from the June 2, 2006 KPA approval letter:

The Port Authority voted to accept your application as submitted with the following conditions: With the civil suits in existence over the line applying to the two 6x20 foot floats, that they be removed or modified as so directed by the Courts. If possible, the main float may be moved easterly 4-6 feet and, when feasible, any large boats be tied in on the 6x20 foot floats and not on the outside main float so not to inconvenient boats navigating into Mr. Case's float. After completion of pier and float, plans shall be submitted to the Port Authority for the records.

Mr. Case stated this does not match the minutes.

Discussion followed regarding the time-line of events, plan submittals, State review and approval, and Code review. Mr. Carson asked if Mr. Mangiafico intends to run a fishing business. Mr. Mangiafico stated he would like to, but turnaround access has been blocked by his neighbor. Further discussion and plan references followed. Mr. Case stated the 2009 plan that was approved by Carol DiBello meets the 2006 plan as approved by the KPA. Ms. Castellano noted Mr. Mangiafico has a building permit from 2008, but not one for the current ramp.

Mr. Carson recommended allowing the Port Authority the opportunity to gather necessary information, contact Carol DiBello, and to conduct a site walk. Mr. Smith concurred, noting the KPA needs additional information from approval sources prior to scheduling a site walk. Further review will be scheduled at a future date. Mr. Mangiafico asked if the Port Authority will allow him to keep the floats where they are. Mr. Carson stated he would not ask the Port Authority to rule on that at this time.

- John Roukes, 26 Badgers Island West, request KPA approval to install pilings where former pilings existed. He is asking for approval so he may utilize the Pickering Marine crane already on site nearby.
Mr. Melanson moved to allow John Roukes to install two pilings as in-kind replacement, including roller conveyances and subject to submission of a sketch plan to the Chair outlining his request.
Mr. Bush seconded
There was no discussion.
Motion carries unanimously

- Cynthia Haverill, 9 Water Street, Map 1 Lot 48, requesting a retaining wall above mean high water. Mr. Carson advised the Planning Office this request will require an application to the KPA.

6. Public Segment

- Milton Hall
 - Landing strip at the Navy Yard; 74-46 slips installed, is there a pump out?
 - Where did mooring 798 come from? Peter Walsh stated it was approved as a floating dock. Navy Yard moorings 15 and 16 were there first.
 - Proposed storm moorings in cove may require property owners' permission.
 - Traip Ramp income is restricted.
- Scott Mangiafico referenced the discussion on temporary mooring, noting there is a provision in the fourth year regarding payment.

7. Projects

- Frisbee Pier Replacement
 - Ladders – Mr. Smith stated installation should be completed by September 9, 2012
- BIG Project
 - DPW Report – Peter Walsh
Preliminary design agreement under review; Council presentation on September 24, 2012; GPS coordinate data expanded; DPW would like to work with the KPA to put together the long-range and capital plans prior to FY 2014 CIP planning, recommending December 1, 2012 for completion.
 - KPA Project Manager Report
 - KPA Harbor Master Comments – Concerned about increased budget costs to KPA for equipment, personnel, insurance, etc.
 - Pepperrell Cove Storm Reefs & Dredge Task Force – Mr. Carson and Harbor Master Blake attended the Dredging Task Force meeting. Rock to be removed is now at 25,000 CY. DEP needs to be involved in the re-use of dredge material and neighboring towns will be contacted. Harbor Master Blake stated a response needs to be made to the Chief of Planning. Mr. Carson stated this needs to come from the Town Manager, and he should meet with the Chairman to formulate a response.

8. Rewrite of Rules & Regulations.

Mr. Carson recommended the KPA hold Wednesday workshops to review Rules & Regulations rather than attempt to do so during regularly scheduled meetings.

Mr. Smith moved to hold workshops to discuss KPA Rules and Regulations at 6:00 p.m. on September 19, October 17 and October 30, 2012.

Mr. Melanson seconded

There was no discussion.

Motion carries unanimously

- Areas Under Consideration
 - Fees – Commercial Moorings
 - Fees – Harbor Use Fee
 - Fees- Mooring Renewal Schedule
 - Fees – Commercial Boat Haulers

- Temporary Moorings
- Riparian Line Definition
- Fishing Policy
- House Boats
- No Discharge
- Signage at KPA Managed Facilities
- Maintenance of Town Facilities Managed by KPA
- Budgets
- Isle of Shoals Moorings
- Other
- Process

9. Correspondence & Comments to / from the Chair

- Grant Application & Fund Raising
 - SHIP Grant Application withdrawn. Items will have to be included in the CIP funding.
- Reports to Council
- Budget Process
- Initiatives. Back Channel moorings and new Frisbee Pier celebrations have not progressed but will be coming forward in the future, including the Rules and Regulations and coordination with Title 16, Land Use.
- Communications
- Seasonal Comment – Mr. Carson announced his resignation as Chairman of the Port Authority effective September 6, 2012 He read the following email submitted to Town Manager Markel and Town Clerk Place:
Effective at the conclusion of the Chair's segment of tonight's 6 September 2012 Kittery Port Authority meeting, I will submit my resignation to the KPA as Chairman of the Authority and ask the Vice Chair to conduct elections. To facilitate an orderly transition, I plan to continue as a member of the Kittery Port Authority until sometime before the KPA's October meeting. A formal letter of my resignation from the KPA will be submitted to the Council at that time.

Mr. Carson also read:

I hereby submit my resignation as Chairman of the Kittery Port Authority effective at the conclusion of the Chair's segment of tonight's monthly meeting. Thank you for the opportunity to serve the Port and the Town of Kittery as Chairman of the Authority since November 2009 and for all that your efforts have accomplished since. You have laid the groundwork for a Port which will be more exciting and self sustaining and will be able to offer more extensive services to the maritime community. Progress has been made but much remains to be done. Some will be impatient....stay the course.

Mr. Carson turned the meeting over to the Vice Chairman, Barry Bush.

Mr. Bush thanked Mr. Carson for his service as Chairman and Port Authority member. He asked for nominations for Chairman, noting he did not wish to be considered or nominated for the position.

Mr. Smith nominated Bob Melanson

Mr. Carson seconded

There were no further nominations

Mr. Melanson accepted the nomination

Discussion followed regarding Mr. Melanson's position as a Planning Board representative and whether he could retain both positions. Mr. Melanson stated if he could not, he would prefer to remain on the Port Authority. Mr. Carson stated the Council will have to sort this out.

Ms. Castellano cast one ballot for the Authority to accept the nomination Mr. Melanson as Chairman of the Kittery Port Authority.

10. Board Members – New and Old Business

There was no discussion on this item

11. Adjournment

Mr. Carson moved to adjourn

Mr. Bush seconded

Motion carries unanimously

The Kittery Port Authority meeting of September 6, 2012 adjourned at 10:00 p.m.

Submitted by Jan Fisk, September 13, 2012

ATTACHMENT

Dear John Carson . . as Kittery Port Authority chairman,

August 27, 2012

As a dock owner in the *back channel I ask your help – you being lead KPA person. I've recently asked about placement of extra floats at my abutter's dock. The last time the KPA voted to support dock ideas for this abutter was 6-1-06. At that time this abutter outlined his plans to set up a fishing business. Later the ZBA limited it to a 'minor' home occupation. This I endorsed once it was clarified that the business was to be small so to not be intrusive but still in line with Maine's support of the working waterfront. The request for side floats was to ease in docking alongside the pier with hoist (to be), to accommodate working boats. But this summer two 6x20 floats got placed end-to-end west of the primary 12x20 float, what I believe conflicts with plans the KPA and State allowed. Thus the dock face has been extended to 26'. Why I've come to you is that these extra floats can impede 6' of navigable waters, even if no boat is docked there, for me or anyone landing at my dock. In prior KPA hearings strong back channel currents have been noted to cause challenging landing on any of the cove docks, at times, even without stormy seas. Since the other side of this abutter's pier is free of cramped space I ask why the floats are not put there. This is a point that I believe led Carol DiBello of the State to require the extra floats be placed on the other side of this abutter's pier, if at all. I wonder what current KPA findings are, in coordination with Town and State, if the extra floats - as newly configured - are still allowed on the basis of some new idea or the old plan for a future fishing business - requested by the abutter with ZBA input 11-14-06. If the intent is to move the floats I ask for KPA help on my behalf, to speed the process and I thank you for your time. Please know that until the floats are where they belong or are in a safer storage position for boaters coming to my dock, timely KPA findings are important to me & I offer the following points:

1. If the plan is to keep added floats for a yet-to-be-established small scale waterfront fishing business what's the reason they are not now where the State requires them to be per plan as documented?
2. This season boats and nautical items were left on or tied up to the float(s). Recreational boats that came for a visit docked for short periods of time. In Aug a whaler came to stay, I believe it is abutter owned. How does a Town issued 'construction' permit which has been renewed regularly since 1997 allow 'use' activity before a 'use' permit is issued? The last construction I saw was removal of deteriorating older floats, beached for awhile, a project that along with the pier I was glad to see completed.
3. If running a fishing business is no longer intended then why are any extra floats granted - at all?

I respectfully request KPA clarification or referral so a) I can count on safer clearance between abutting floats reducing unnecessary navigational distress & b) I can pass along accurate data to potential buyers as my place has been for sale since 2008, which you likely know - see below. Thank you. Most sincerely,

Charlie Case

Lot # 10-14 at 108 Whipple Rd Kittery. Abutter = Lot # 10-13 at 7 Keene Terrace.

* My wife, Sherry Walworth, and I co-own 108 Whipple Rd but we reside in Eliot. We keep boats on our Kittery dock. We believe it's incumbent on us to be clear with potential buyers on what we have to sell. We realize how waterfront details facing the KPA are complicated and take time and care to work out. However, the KPA, Town and State together hold records we are obliged to honor. We want to sell our property with documents matching what's in place, what KPA, Town and State decide, it's not up to us.

Case & Walworth
135 Pleasant St.
Eliot, ME 03903